IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1903 OF 2006.
CRIMINAL WRIT PETITION NO. 1904 OF 2006.
AND
CRIMINAL WRIT PETITION NO. 1905 OF 2006.

M/s.Siddharth Publications & ors. ... Petitioners
(In all petitions).

Versus.

State of Maharashtra & ors. ... Respondents
(In all petitions).

Shri P.M.Chakurkar for the Petitioners.
Shri U.V.Nikam for the Respondent-State.

CORAM : ABHAY S.OKA, J.

DATED : 12th September, 2006.

P.C.:

1. Heard the learned Advocate appearing for the Petitioners. The facts of these three petitions are identical and therefore, for the sake of convenience, a reference is made to the facts of the Writ Petition No.1903 of 2006.

2. The Petitioners are arraigned as accused in a private complaint filed by the Respondent No.2. The process has been issued in the private complaint by the learned Magistrate. The prayer in these petitions is for quashing the proceedings of the complaint.

3. It is not in dispute that the Petitioners had earlier filed a Writ Petition in this Court praying for quashing the same complaint. By order dated 17th January 2006, the said Writ Petition was disposed of by this Court by granting liberty to the Petitioners to make an application for discharge. It is not in dispute

that on the basis of the liberty granted by this Court, the Petitioners have applied for discharge under section 245 of the Code of Criminal Procedure, 1973. The grievance of the learned Counsel for the Petitioners is that the application for discharge is not being considered by the learned Magistrate on merits and in the meanwhile bailable warrant has been issued against the Petitioners. He, therefore, submitted that this petition for quashing deserves to be entertained.

4. The earlier petition filed by the Petitioners for the same relief has been dismissed by this Court by granting liberty to the Petitioners to apply for discharge. As per the liberty granted by this Court, the Petitioners have in fact applied for discharge. The said application is bound to be considered and decided by the learned Magistrate on its own merits. Only on the ground that the discharge application is not being decided, this subsequent petition containing the same prayer for quashing cannot be entertained.

5. Subject to what is stated above, the writ petitions are rejected. All contentions of the Petitioners on merits of the complaint and on the merits of the pending discharge application are expressly kept open.

Judge.